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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6194 OF 2024

Pallavi Laxman Barate .. Petitioner
Vs.
The State of Maharashtra & Anr. .. Respondents

...
Mr. Shrikant Patil, Advocate for petitioner.
Mr. N. C. Walimbe, Addl.e GP with Mr. S. P. Kamble, AGP for the
respondent no.1-State.
Mrs. Pranali P. Kakade, Advocate for respondent no.2.
...

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 09th AUGUST, 2024.

P.C. :

1. The challenge raised in this writ petition is to the order dated 05/03/2024 passed by the Maharashtra Administrative Tribunal in Original Application No.852 of 2022. By that order, the Original Application preferred by the petitioner seeking a direction for revising the recommendation list dated 20/06/2022 and appointing the candidate at serial no.10 as a General Category Candidate and thereafter filling in the further vacancy by appointing the petitioner on the post of Assistant Conservator of Forests by operating horizontal reservation came to be dismissed.
2. On 08/03/2019, Advertisement No.4/2019 was issued by the Maharashtra Public Service Commission for recruitment on 29 posts of Assistant Conservator of Forest, Group-A. Out of the

nine posts reserved for women, four posts were for the open category and one post was for women from the Other Backward Class category. The petitioner applied from the Other Backward Class (female) category. The petitioner who was appointed on the post of Range Forest Officer had applied pursuant to the aforesaid advertisement. The revised list of recommended candidates was published on 20/06/2022. However, the petitioner's name did not figure in the said list. It was the case of the petitioner that one post was earmarked for Open Sports Category. On such candidate not being available, it was required to be filled in on the basis of the next meritorious candidate of the same category. The candidate at Serial No.10 was selected as Open Female ought to have been accommodated on the post earmarked for Open Sports Category and against the post of the candidate at Serial No.10, the candidate at Serial No.13 ought to be recommended. By operating the recommendation list in this manner, the candidate at Serial No.21 would be recommended as Open Female-4 instead of OBC Female-1. Thereafter, the petitioner could have been accommodated on the vacant post as OBC Female-1. The respondents did not operate the recommendation list in the aforesaid manner and thus the petitioner was deprived of appointment in the OBC Female Category. On this basis, the

petitioner approached the Tribunal.

3. The Tribunal held that horizontal reservation was required to be implemented in the manner indicated in the Circular dated 16/03/1999 and corrigendum dated 19/12/2018. Since the candidate at Serial No.12 was a female candidate, she was rightly considered on the post reserved for females. As no candidate was available from the sports category, the next candidate on the basis of merit was selected against this post. It was held that the MPSC rightly implemented the policy of horizontal reservation and that the petitioner was not entitled for any such declaration. On that basis, the Original Application came to be dismissed.

4. Mr. Shrikant Patil, the learned counsel for the petitioner reiterated the contentions that were raised before the Tribunal. According to him, one of the candidates from the OBC Female Category namely Ms. Ghotkar Shweta Ashok was found to be not qualified and her name came to be deleted from the recommendation list. The petitioner thereafter on 12/04/2022 had addressed an e-mail to the respondents indicating the manner in which the recommendation list ought to have been operated. Instead of doing so, the respondents failed to revise the recommendation list ignoring the norms of horizontal reservation that were required to be applied. The petitioner having applied

from the OBC Female Category, she was entitled to be appointed after revising the recommendation list on the principle of horizontal reservation. There was no other candidate who had secured more marks than the last selected candidate and the petitioner. If the recommendation list was properly revised, the petitioner would have been appointed in the OBC Female Category for which one post was reserved. It was thus submitted that the prayers made in the Original Application ought to have been granted and the petitioner ought to have been issued an order of appointment.

5. Mr. N. C. Walimbe, the learned Additional Government Pleader supported the order passed by the Tribunal. He relied upon the affidavit in reply has filed and submitted that the recommendation list had been prepared on the basis of the Circular dated 16/03/1999 and the corrigendum dated 19/12/2018. The recommendations had been made by implementing horizontal reservation in the manner provided in the Circular. The candidate appointed on the post reserved for OBC Females had secured more marks than the petitioner. Hence there was no reason to interfere with the order passed by the Tribunal.

6. Having heard the learned counsel for the parties and having

perused the documents on record, we do not find that the Tribunal committed any error in dismissing the Original Application. Undisputedly, the petitioner sought appointment in the OBC Female Category for which one post was reserved. The other four posts were reserved for candidates from the Open Female Category. A perusal of the marks of the candidates at Serial Nos.10 to 13 indicates that all these candidates were more meritorious than the petitioner. The last candidate appointed on the post reserved for OBC Female Category had more marks than the petitioner. It has not been demonstrated that any other candidate from the OBC Female Category having lessor marks has been given appointment in preference to the claim of the petitioner. The Circular dated 16/03/1999 as well as the corrigendum dated 19/12/2018 indicate the manner in which the process of horizontal reservation has to be worked out. Since the candidate from the Open Sports Category was not available, the next meritorious candidate after the candidate at Serial No.10 came to be appointed. While the candidate at Serial No.10 had secured 263 marks, the candidate at Serial No.11 had secured 262 marks. The petitioner having secured 236 marks, she could not have staked a claim for the post reserved for the OBC Female category. We therefore do not find that the MPSC has incorrectly

prepared the recommendation list.

7. Hence for aforesaid reasons, we do not find any case made out to interfere in exercise of writ jurisdiction. In absence of there being any jurisdictional infirmity in the order passed by the Tribunal, the Writ Petition is liable to be dismissed. It is accordingly dismissed with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]